

**IN THE MATTER OF
THE SECURITIES ACT
R.S.O. 1990, c. S.5, AS AMENDED**

AND

**IN THE MATTER OF
THE APPLICATION BY JAMES F. ROACH FOR STANDING TO APPEAL THE
DECISION OF THE INVESTMENT DEALERS ASSOCIATION OF CANADA, DATED
DECEMBER 6, 2000, TO THE ONTARIO SECURITIES COMMISSION
PURSUANT TO SECTION 21.7(1) OF THE ACT**

HEARING DATE: This was a Hearing in Writing on consent of the Parties conducted on March 18, 2002

BY: P.M. Moore, Q.C. - Vice-Chair
H.L. Morphy, Q.C. - Commissioner

SUBMISSIONS CONSIDERED FROM:

Submissions of M. Kennedy on behalf of Staff of the Ontario Securities Commission

Submissions of K.J. Kelertas on behalf of Investment Dealers Association of Canada

Submissions of James F. Roach

Submissions of P.F. Monahan, Fasken Martineau DuMoulin on behalf of B. Connolly

CASES REFERRED TO IN THE SUBMISSIONS:

In the Matter of Instinet Corporation (1995), 18 OSCB 5439; *Minister of Finance of Canada v. Finlay*, [1986] 2 S.C.R. 607; *In the Matter of Canada Malting Co. v. Ontario Securities Commission*, [1977] O.J. No. 2152 (Div. Ct.); *Re Reuters Information Services (Canada) Limited, Cantor Fitzgerald Securities Company* (1997), 20 OSCB 2277; *Re Connolly*, [2000] I.D.A.C.D. No. 62 I.D.A. Bulletin No. 2801, December 13, 2000; *Bohnet v. Law Society of Alberta* (1992), 2 Alta. L.R. (3d) 6, [1992] A.J. No. 272 (Q.B.); *Griffel v. Royal College of Dental Surgeons of Ontario* (1991), 44 O.A.C. 141, [1992] O.J. No. 461 (Div. Ct.); *Regina v. O'Connor*, [1993] B.C.J. No. 1466 (B.C.C.A.); *Re Albino* (1991), 14 OSCB 365.

REASONS FOR DECISION

This is an application by James Roach pursuant to s. 21.7(1) of the *Securities Act* for standing to appeal to the Ontario Securities Commission the decision of the Investment Dealers Association of Canada ("IDA") regarding Barney Connolly, released on December 21, 2000.

On the consent of counsel for the IDA and counsel for staff of the Commission, the Commission granted the request of Roach filed on October 7, 2001 to conduct the hearing of this matter in writing pursuant to Rule 5 of the Commission's *Rules of Practice*. Written submissions were made by Roach, counsel for Connolly, counsel for the IDA and counsel for staff of the Commission. Roach submitted written reply to the submissions of the IDA and Commission staff.

In that Roach was not a party to the matter before the IDA, in order to obtain standing to appeal he must be a person "directly affected" by the decision. In *In the Matter of Instinet Corporation* (1995), 18 OSCB 5439, this Commission determined that the issue of standing would be determined as a preliminary matter. It further set out a four-part test to be considered in determining whether an applicant is "directly affected" as required by s.21.7(1) of the *Securities Act* in order to have standing to appeal.

Having considered the four-part test, we have determined as a preliminary matter that this application does not satisfy the test. Accordingly, the application is dismissed.

March 18, 2002.

"Paul M. Moore"

"H.Lorne Morphy"